

United States District Court

for the

Eastern District of WashingtonFILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**Oct 09, 2024**

SEAN F. McAVOY, CLERK

Petition for Warrant or Summons for Offender Under Supervision

Name of Offender: Gary Lee Day, II

Case Number: 0980 2:18CR00158-SAB-1

Address of Offender: [REDACTED] Nespelem, Washington 99155

Name of Sentencing Judicial Officer: The Honorable Rosanna Malouf Peterson, Senior U.S. District Judge

Name of Supervising Judicial Officer: The Honorable Stanley A. Bastian, Chief U.S. District Judge

Date of Original Sentence: August 7, 2019

Original Offense: Crime on Indian Reservation, Assault Resulting in Serious Bodily Injury, 18 U.S.C.
§§ 113 (a)(6) and 1153Original Sentence: Prison - 50 months
TSR - 36 months

Type of Supervision: Supervised Release

Revocation Sentence: Prison - 6 months
(January 19, 2024) TSR - 30 months

Asst. U.S. Attorney: Earl Allan Hicks

Date Supervision Commenced: June 12, 2024

Defense Attorney: Federal Defenders Office

Date Supervision Expires: December 11, 2026

PETITIONING THE COURT

To incorporate the violation(s) contained in this petition in future proceedings with the violation(s) previously reported to the Court on 08/27/2024 and 09/06/2024.

Mr. Day's conditions of supervised release were reviewed with him on June 20, 2024, and he acknowledged an understanding of the terms and conditions of his supervised release.

The probation officer believes that the offender has violated the following condition(s) of supervision:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
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Mandatory Condition #1: You must not commit another federal, state or local crime.

Supporting Evidence: It is alleged that on October 3, 2024, Mr. Day violated the terms and conditions of his supervised release by committing the misdemeanor offenses of malicious mischief domestic violence, eluding, failure to obey law enforcement officer, resisting arrest, battery on an officer, prohibited acts possession, prohibited acts drug paraphernalia, and disorderly conduct.

On October 3, 2024, per Colville Tribal Police Department (CTPD) report 24-2075, a CTPD officer was dispatched to a residence where a reported domestic violence disturbance was occurring. Mr. Day was the reported suspect. He had allegedly broken the front door to this

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residence. As the CTPD officer arrived near the reported residence he was advised by dispatch that Mr. Day left the residence on a bicycle and it was determined that he had probable cause to detain Mr. Day for further investigation. The CTPD officer located Mr. Day on a bicycle and pulled over next to him with his emergency lights activated. It was indicated to Mr. Day that he was not free to leave. Mr. Day ignored the CTPD officer's commands and peddled his bike in the opposite direction of the CTPD officer. The CTPD officer followed Mr. Day, though he continued to evade and not follow instructions. As Mr. Day continued to evade the CTPD officer, a Colville Tribal natural resource officer intervened on the scene. It was at that time Mr. Day got off his bicycle and attempted to run past the CTPD officer.

The CTPD officer then grabbed Mr. Day by the arms and ordered him to stop resisting. Mr. Day was able to free his right hand and he balled up his fist and swung at the CTPD officer. A scuffle then ensued and Mr. Day attempted to grab one of the CTPD officer's tasers. CTPD officers were eventually able to detain Mr. Day. It was noted that he had the smell of alcohol emitting from his person. Mr. Day's backpack was searched subject to this incident and a small container containing marijuana was located along with various drug paraphernalia items. The CTPD officer's injuries were documented and Mr. Day was transported to Coulee Medical Center where he was subsequently medically cleared and booked into the Colville Tribal Jail on the aforementioned charges, where he remains as of this writing.

- 10 **Mandatory Condition #2:** You must not unlawfully possess a controlled substance, including marijuana, which remains illegal under federal law.

Supporting Evidence: It is alleged that Mr. Day violated the conditions of his release on or about October 3, 2024, by possessing a controlled substance, specifically marijuana.

On October 3, 2024, per CTPD report 24-2075, Mr. Day was arrested on various charges. Mr. Day's backpack was searched subject to arrest and in this backpack it contained a small container of marijuana and various drug paraphernalia items.

- 11 **Special Condition #6:** You must not enter into or remain in any establishment where alcohol is the primary item of sale. You must abstain from alcohol and must submit to urinalysis and Breathalyzer testing as directed by the supervising officer, but no more than 6 tests per month, in order to confirm continued abstinence from this substance.

Supporting Evidence: It is alleged that Mr. Day violated the conditions of his supervised release by consuming alcohol on or about October 3, 2024.

On October 3, 2024, per CTPD report 24-2075, Mr. Day was arrested on various charges. During his contact with CTPD officers it was noted that he had the smell of alcohol emitting from his person.

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The U.S. Probation Office respectfully recommends the Court to incorporate the violation(s) contained in this petition in future proceedings with the violation(s) previously reported to the Court.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: October 9, 2024

s/Jonathan C. Bot

Jonathan C. Bot
U.S. Probation Officer

THE COURT ORDERS

- ☐ No Action
- ☐ The Issuance of a Warrant
- ☐ The Issuance of a Summons
- ☒ The incorporation of the violation(s) contained in this petition with the other violations pending before the Court.
- ☐ Defendant to appear before the Judge assigned to the case.
- ☒ Defendant to appear before the Magistrate Judge.
- ☐ Other



Signature of Judicial Officer

10/9/2024

Date